

ESTTA Tracking number: **ESTTA465491**

Filing date: **04/04/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Panco Men's Products, Inc., d/b/a Panco, Ltd.		
Entity	Corporation	Citizenship	California
Address	45-605 Citrus Avenue Indio, CA 92201 UNITED STATES		

Attorney information	Diane M. Reed KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@kmob.com Phone:(949) 760-0404
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Applicant Information

Application No	85261679	Publication date	03/06/2012
Opposition Filing Date	04/04/2012	Opposition Period Ends	04/05/2012
Applicant	Cremonini, Barbara 412 Bayside Lane Nokomis, FL 34275 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Skin Creams
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX		
Goods/Services	skin creams, lotions and moisturizers		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Word Mark	GENES
Goods/Services	skin creams, lotions and moisturizers

Attachments	PANCO044M - Notice of Opposition.pdf (5 pages)(176364 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/diane m. reed/
Name	Diane M. Reed
Date	04/04/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Panco Men's Products, Inc., d/b/a Panco, Ltd.

Opposer,

v.

Barbara Cremonini,

Applicant.

) Opposition No.: _____

) Serial No.: 85/261,679

) Mark: GENES VITAMIN E CREME
) SWISS COLLAGEN COMPLEX) I hereby certify that this correspondence and all marked
) attachments are being electronically filed with the Trademark
) Trial and Appeal Board through their web site located at
) <http://esta.uspto.gov> on:

4/4/12

(Date)

Diane M. Reed

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Panco Men's Products, Inc., d/b/a Panco, Ltd., a California corporation, located and doing business at 45-605 Citrus Avenue, Indio, California 92201 ("Opposer"), believes that it will be damaged by registration of U.S. Trademark Application Serial No. 85/261,679 ("Application") for the mark GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX owned by Barbara Cremonini ("Applicant") and therefore oppose the same.

As grounds for opposition, it is alleged:

1. By the Application filed on March 9, 2011, Applicant seeks to obtain registration on the

Principal Register of the trademark GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX in connection with “skin creams” in International Class 03.

2. The Application is based on an intent-to-use under Section 1(b) of the Trademark Act.
3. Since at least November 2, 2000, long before the filing date of the Application, Opposer has been and still is engaged in the development, production, marketing and sale of skin creams, lotions and moisturizers under the marks GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX and GENES (the “GENES Marks”).
4. Since its launch in 2000, Opposer’s GENES Marks have been a top-selling skin crème and moisturizer.
5. Opposer has and relies upon its extensive common law rights in the GENES Marks throughout the United States, having sold millions of jars of its high quality product under these marks.
6. Since long before filing date of the Application, Opposer has continuously and extensively used and promoted the GENES Marks in connection with its goods in interstate commerce. By virtue of Opposer’s continuous and substantial use, the GENES Marks have become identifiers of Opposer and its goods, and distinguish Opposer’s goods from the goods of others. As a result, Opposer has built up, at great expense and effort, valuable goodwill in the GENES Marks. Opposer has developed a significant amount of goodwill through the use and promotion of its GENES Marks, such that consumers have come to recognize the GENES Marks with which Opposer markets and sells its goods.
7. Opposer’s GENES Marks are inherently distinctive marks, recognized as such by the general consuming public in the United States prior to the March 9, 2011 filing date of the Application. Such use has been valid and continuous, and has not been abandoned.

8. Opposer's common law rights in the GENES Marks were established long before and predate the filing date of Applicant's application. Therefore, Opposer's rights in the GENES Marks are prior and superior to Applicant's rights in the Application
9. On information and belief, Applicant has not used the GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX mark in commerce.
10. On information and belief, Applicant had knowledge of Opposer's use and ownership of the GENES Marks before filing the Application.
11. Opposer filed Application Serial No. 85392591 on August 8, 2011, which is after the filing date of the Application Serial No. 85261679 filed March 9, 2011. Opposer has a reasonable belief that registration of its application may be refused if the Application registers.
12. In view of the substantial similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that the mark shown in the Application so resembles Opposer's GENES Marks, previously used in the United States and not abandoned, as to be likely to cause confusion or to cause make or deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).
13. Applicant seeks an unrestricted federal registration for GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX covering skin creams. As such, if a registration issues for the Application, such registration will constitute prima facie evidence of the Applicant's exclusive right to use the registered mark in commerce on or in connection with skin creams throughout the United States with no limitation thereon. Opposer will be damaged by registration of the Application in that the GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX mark so resembles Opposer's GENES VITAMIN E

CREME SWISS COLLAGEN COMPLEX and GENES Marks, in which Opposer owns common law trademark rights as to be likely, when used on or in connection with the goods as they are identified in the Application, as to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

14. By reason of all the foregoing, Opposer will be damaged by the registration of the mark shown in the Application.
15. In view of Opposer's prior rights in the GENES Marks, Applicant is not entitled to federal registration of the GENES VITAMIN E CREME SWISS COLLAGEN COMPLEX mark pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 85/261,679 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

April 4, 2012

By: _____



Diane M. Reed

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Attorneys for Opposer, Panco Men's Products,
Inc., d/b/a Panco, Ltd.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **Notice of Opposition** upon Applicant's by depositing one copy thereof in the United States Mail, first-class postage prepaid, on April 4, 2012, addressed as follows:

Barbara Cremonini
412 Bayside Lane
Nokomis, FL 34275



Pamela Pascual
Trademark Paralegal

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